

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TORY BURCH LLC; RIVER LIGHT V, L.P.

Plaintiffs

v.

YONG SHENG INTERNATIONAL TRADE CO., LTD;
CONGDADA PENA; BINGFENG QUI; LI
YAXIACHAI; LI BIN; LINJIANPING; JACK
WILSON; JIANGUO CHEN; TORYBURCH-
MALL.COM; ZHUZIXIAN; BILL FISHER; ANTLEO
LIN; JQ LIN; WU JUNYU; MILLION MAN d/b/a
TORYBURCHOUTLETSHP.COM; VECTO S. d/b/a
TORYBURCHSALE.NET; LIDAYONG; ZHAN
JIAQUIN; JIAXINTONG IMPORT & EXPORT CO.
LTD d/b/a SPORTS SDFSS; KEYWHOLESALE.COM
INC; YUCANG LI; FREESHIPPINGHANDBAG.COM;
RUAN FA; NINE NINE TRADE; DONGWEI;
LOUBOUTINTIME.COM; DYLAN d/b/a
JIMMYBOOTS.COM; ONESTOP-
ONLINESHOPPING.COM; ZHONGTIAN; RAO
YUZHAO d/b/a TOPSHOESTOBAGS TRADE CO.
LTD.; COLO CHONG d/b/a UGGLouboutin CO,
LTD; YE JUNJIE d/b/a GUIHE TRADING CO. LTD;
XINLI CHEN d/b/a GUANGZHOU FASHIONPURSUE
TRADE CO. LTD.; WU DONG d/b/a SPORTS SERIES
TRADE CO. LTD; WHOLESALEUSLIVE.COM;
JESSKI2010; CHINA SUNSHINE INTERNATIONAL
TRADING CO. LTD. d/b/a NAME-BRAND-
ONLINE.COM; YANG QIAO d/b/a FASHION866
TRADE CO., LTD.; CHEN JIONGYANG d/b/a
FASHIONHOLIC CO. LTD.; XIAO XIANMO d/b/a
XIAMEN SHINSON TRADING CO., LTD.; RIHONG
LIN d/b/a JACK SMITHS; XYZ COMPANIES; and
JOHN and JANE DOES

Defendants.

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DOC #:
DATE FILED: 1/4/11

Civil Action No. 10 Civ. 9336

[FILED UNDER SEAL
PURSUANT TO 15 U.S.C.
§ 1116]

PRELIMINARY INJUNCTION ORDER

Plaintiffs TORY BURCH LLC and RIVER LIGHT V, L.P. (collectively, "Tory Burch" or "Plaintiffs") having moved *ex parte* against YONG SHENG INTERNATIONAL TRADE CO., LTD; CONGDADA PENA; BINGFENG QUI; LI YAXIACHAI; LI BIN; LINJIANPING; JACK WILSON; JIANGUO CHEN; TORYBURCH-MALL.COM; ZHUZIXIAN; BILL FISHER; ANTLEO LIN; JQ LIN; WU JUNYU; MILLION MAN d/b/a TORYBURCHOUTLETSHP.COM; VECTO S. d/b/a TORYBURCHSALE.NET; LIDAYONG; ZHAN JIAQUIN; JIAXINTONG IMPORT & EXPORT CO. LTD d/b/a SPORTS SDFSS; KEYWHOLESALE.COM INC; YUCANG LI; FREESHIPPINGHANDBAG.COM; RUAN FA; NINE NINE TRADE; DONGWEI; LOUBOUTINTIME.COM; DYLAN d/b/a JIMMYBOOTS.COM; ONESTOP-ONLINESHOPPING.COM; ZHONGTIAN; RAO YUZHAO d/b/a TOPSHOESTOBAGS TRADE CO. LTD.; COLO CHONG d/b/a UGGLIOUBOUTIN CO, LTD; YE JUNJIE d/b/a GUIHE TRADING CO. LTD; XINLI CHEN d/b/a GUANGZHOU FASHIONPURSUE TRADE CO. LTD.; WU DONG d/b/a SPORTS SERIES TRADE CO. LTD; WHOLESALEUSLIVE.COM; JESSKI2010; CHINA SUNSHINE INTERNATIONAL TRADING CO. LTD. d/b/a NAME-BRAND-ONLINE.COM; YANG QIAO d/b/a FASHION866 TRADE CO., LTD.; CHEN JIONGYANG d/b/a FASHIONHOLIC CO. LTD.; XIAO XIANMO d/b/a XIAMEN SHINSON TRADING CO., LTD.; RIHONG LIN d/b/a JACK SMITHS; XYZ COMPANIES; and JOHN and JANE DOES (collectively, "Defendants") for a Temporary Restraining Order, Order to Disable Certain Web Sites, Asset Restraining Order, Expedited Discovery Order and Order to Show Cause for Preliminary Injunction (collectively, the "Order") pursuant to Federal Rule of Civil Procedure 65 and the Trademark Act of 1946, 15 U.S.C. §§ 1051, *et seq.*, as amended by the Trademark

Counterfeiting Act of 1984, Public Law 98-473 (October 12, 1984), the Anticybersquatting Consumer Protection Act of 1996, Pub. L. 104-153 (July 2, 1996), and the Prioritizing Resources and Organization for Intellectual Property Act of 2007, H.R. 4279 (October 13, 2008) (the “Lanham Act”), for the reason that Defendants are distributing, offering for sale and/or selling, via the Internet, goods bearing counterfeit reproductions of Tory Burch’s federally registered trademarks, as listed in Tory Burch’s Complaint filed concurrently herewith and incorporated herein by reference, which trademarks (collectively, the “TORY BURCH Marks”) are owned and controlled by Tory Burch and used in connection with products listed in Tory Burch’s Complaint and incorporated herein by reference (collectively, the “Tory Burch Products”); and the Court having reviewed the Complaint, Memorandum of Law in support of the Order, supporting Declarations and exhibits submitted herewith, issued such an Order on December 17, 2010, and having found, *inter alia*, the following:

1. Tory Burch has demonstrated that it is entitled to injunctive relief by establishing that it is suffering irreparable harm and that it is likely to succeed on the merits of its claims;
2. With respect to irreparable harm, and taking into consideration the Second Circuit’s recent abrogation of the historical standard for demonstrating irreparable harm in the context of copyright law (*Salinger v. Colting*, 607 F.3d 68, 77-78 (2d Cir. April 30, 2010) (following *eBay, Inc. v. MercExchange, L.L.C.* 547 U.S. 388, 390-1 (2006))) and replacing it with a new standard, Tory Burch has demonstrated that it is likely to succeed in showing (a) that it is suffering irreparable injury in the absence of an injunction based on Defendants’ distribution, offering for sale and sale of Counterfeit Products (b) that remedies at law, such as money damages, are inadequate to compensate for that injury, (c) that the balance of hardships tips in Tory Burch’s favor and (d) that the public would not be disserved by the issuance of injunctive relief;

3. With respect to likelihood of success on the merits, Tory Burch has demonstrated that it is likely to succeed in showing that its TORY BURCH Marks are valid and protectable and entitled to protection;

4. Further with respect to likelihood of success on the merits, Tory Burch has demonstrated that it is likely to succeed in showing that Defendants are manufacturing, distributing, offering for sale and/or selling counterfeit products -- including but not limited to footwear, handbags and accessories -- bearing counterfeits of the TORY BURCH Marks ("Counterfeit Products") to buyers in the United States, including in this Judicial District;

5. Further with respect to likelihood of success on the merits, Tory Burch has demonstrated that it is likely to succeed in showing that Defendants are selling Counterfeit Products by operating a network of web sites ("Defendants' Infringing Web Sites") resolving at various domain names set forth in **Exhibit 1** attached hereto, including, without limitation, the following domain names containing the TORY BURCH Marks:

| | |
|--------------------------|----------------------------|
| cheap-toryburchshoes.com | toryburch-retail.com |
| discounttoryburch.com | toryburch-retailshop.com |
| discounttoryburch.org | toryburch-sale.com |
| etoryburch.com | tory-burch-sale.com |
| lovetoryburch.com | toryburchsale.net |
| saletoryburch.com | toryburchsale.org |
| sale-toryburch.com | toryburchsaler.com |
| tory-burch.us | toryburchsell.com |
| toryburch2011.com | toryburch-shoes.us |
| toryburchbag.com | toryburchshoesonsale.com |
| toryburchbest.com | toryburchshoes-onsale.com |
| toryburchbrand.com | toryburchshoesoutlets.com |
| toryburchbrandstore.com | toryburchshoes-outlets.com |
| toryburchclassic.com | toryburchshoesstore.com |
| toryburchcom.com | toryburchshop.us |
| toryburchfans.com | toryburchshops.com |
| toryburchflatssale.com | toryburchsoutlets.org |
| toryburch-home.com | toryburch-store.com |

toryburch-mall.com
toryburchnow.com
toryburchofficial.com
toryburchok.com
toryburchonsale.com
toryburch-outlet.com
toryburchoutlet.org
toryburchoutlets.org
toryburchoutletshop.com

toryburchstores.com
toryburchto.com
toryburchtopsale.com
toryburchuk.com
toryburchus.com
toryburchyes.com
toryshoes.com
us-toryburchshoes.com

(collectively, the “Infringing Domain Names”);

6. Defendants have gone to great lengths to conceal themselves and their ill-gotten proceeds from Tory Burch’s and this Court’s detection including by using multiple false identities and addresses associated with their operations and purposely-deceptive contact information;

7. Defendants would likely destroy, move, hide or otherwise make the Counterfeit Products, Defendants’ means of selling and distributing Counterfeit Products, financial accounts used in connection with the sale of Counterfeit Products, and business records relating thereto inaccessible to the Court if Tory Burch was to proceed on notice to Defendants, thus frustrating the ultimate relief Tory Burch seeks in this action; and

8. Tory Burch’s harm from denial of the requested *ex parte* Order would outweigh any harm to Defendants’ legitimate interests from granting such an Order; and

9. Defendants having been served with the Order, Complaint, Summons and supporting papers, including notice of the show cause hearing to be held on January 4, 2011 at 11:00 a.m. in Courtroom 24B in the United States District Court for the Southern District of New York, 500 Pearl Street, New York, NY 10007; and

10. None of the Defendants have filed a response to Tory Burch’s moving papers or otherwise appeared in this action; and

THEREFORE, IT IS HEREBY ORDERED that Defendants, their officers, agents servants and employees and any persons in active concert or participation with them are preliminarily enjoined and restrained from:

- (i) using the TORY BURCH Marks or any reproduction, counterfeit, copy or colorable imitation of the TORY BURCH Marks in connection with the distribution, advertising, offer for sale and/or sale of merchandise not the genuine products of Tory Burch; and
- (ii) passing off, inducing or enabling others to sell or pass off any Counterfeit Products as and for Tory Burch Products; and
- (iii) shipping, delivering, holding for sale, distributing, returning, transferring or otherwise moving, storing or disposing of in any manner footwear, handbags, apparel, accessories or other items falsely bearing the TORY BURCH Marks, or any reproduction, counterfeit, copy or colorable imitation of same; and
- (iv) utilizing the Infringing Domain Names and registering any additional domain names that use or incorporate any of the TORY BURCH Marks; and
- (v) operating and/or hosting Defendants' Infringing Web Sites.

ORDERED, that third parties providing services used in connection with Defendants' operations including, without limitation, Internet Service Providers ("ISP"), registrars, or online third-party selling platforms including without limitation Alibaba.com, Tradekey.com, iOffer.com, EC21.com, Ecplaza.net and DIYtrade.com, having knowledge of this Order by service, actual notice or otherwise be, and are, hereby preliminarily enjoined from providing services to any Defendant in conjunction with any of the acts set forth in subparagraphs (i)-(v) above; and it is further

ORDERED that in accordance with 15 U.S.C. § 1116(a) and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, that the asset restraint provisions contained in the Order shall remain in place until the disposition of this action as to Defendants and their officers, servants, employees and agents and

any persons in active concert or participation with them, and any banks, savings and loan associations, payment processors or other financial institutions, including without limitation PayPal, Inc. ("PayPal"), or other merchant account providers, payment providers, or third party processors for any Defendant, any of Defendants' operations, Defendants' B2B Selling Pages, Defendants' Infringing Web Sites or for any other website owned or controlled by Defendants, who receive actual notice of this Preliminary Injunction Order, shall immediately locate all accounts connected to Defendants or Defendants' Infringing Web Sites and that such accounts be temporarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets, not allowing such funds to be transferred or withdrawn, and not allowing other diminutions to be made by Defendants from such accounts pending further order from this Court;

ORDERED that upon two (2) business day's written notice to the Court and Tory Burch's counsel, any Defendant may, upon proper showing, appear and move for the dissolution or modification of the provisions of this Preliminary Injunction Order concerning the restriction upon transfer of such Defendant's assets; and it is further

ORDERED that Tory Burch may continue to obtain expedited discovery by providing actual notice, pursuant to subpoena or otherwise, of this Preliminary Injunction Order to any of the following: (1) Defendants, their agents, servants, employees, confederates, attorneys, and any persons acting in concert or participation with them; (2) any banks, savings and loan associations, payment processors or other financial institutions, including without limitation, PayPal, or other merchant account providers, payment providers, third party processors, credit card associations (e.g., MasterCard and VISA), which receive payments or hold assets on Defendants' behalf; and (3) any third party service providers, including without limitation, ISPs, back-end service providers, web designers, sponsored search engine or ad-word providers,

shippers, domain name registrars, domain name registries or online third-party selling platforms including without limitation DIYtrade.com, Alibaba.com, Tradekey.com, Ecplaza.net, iOffer.com and EC21.com who have provided services for Defendants; and it is further

ORDERED, that any third party providing services in connection with any Defendant and/or Defendants' Infringing Web Sites, including without limitation, ISPs, back-end service providers, web designers, sponsored search engine or ad-word providers, banks, merchant account providers including PayPal, third party processors and other payment processing services, shippers, domain name registrars, domain name registries and online third-party selling platforms including without limitation DIYtrade.com, Alibaba.com, Tradekey.com, Ecplaza.net, iOffer.com and EC21.com (collectively "Third Party Providers") shall within five (5) days after receipt of such notice, provide copies of all documents and records in such person or entity's possession or control relating to:

(a) The identities and addresses of Defendants, their agents, servants, employees, confederates, and any persons acting in concert or participation with them and the locations and identities of Defendants' operations, including without limitation, identifying information associated with Defendants' websites, Infringing Domain Names and financial accounts;

(b) Defendants' Infringing Web Sites;

(c) The Infringing Domain Names or any domain name registered by Defendants;

and

(d) Any financial accounts owned or controlled by Defendants, including their agents, servants, employees, confederates, attorneys, and any persons acting in concert or participation with them, including such accounts residing with or under the control of any banks, savings and loan associations, payment processors or other financial institutions, including without

limitation, PayPal, Western Union, or other merchant account providers, payment providers, third party processors, credit card associations (e.g., MasterCard and VISA); and it is further

ORDERED that, in accordance with 15 U.S.C. § 1116(a) and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, the domain name registries, including but not limited to VeriSign, Inc., Neustar, Inc., and Public Interest Registry and/or the individual registrars holding or listing one or more domain names used in conjunction with Defendants' Infringing Web Sites, disable and/or continue to disable the Defendants' Infringing Web Sites, and make them untransferable pending further order from this Court; and it is further

ORDERED that, in accordance with 15 U.S.C. § 1116(a) and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, any third party providing services in connection with any Defendant and/or Defendants' websites, including without limitation ISPs, back-end service providers, affiliate program providers, web designers, and sponsored search engine or ad-word providers, shall immediately temporarily disable service to any and all Defendants' Infringing Web Sites; and it is further

ORDERED, that Tory Burch may continue to serve process on Defendants by electronic mail at the following eighty-one (81) email addresses, which Tory Burch has demonstrated will provide adequate notice to Defendants pursuant to Fed. R. Civ. P. 4:

| | |
|-----------------------------|---------------------------------|
| 1010236175@qq.com | namebrandwholesaler@hotmail.com |
| 70290473@qq.com | ndw4d@sine.cn |
| airmaxluolin@hotmail.com | peak_allen@yahoo.com.cn |
| aizhuozhuo888@gmail.com | sale.uggboots@hotmail.com |
| alltopbag@gmail.com | sale@designerhandbags8.com |
| anthonyleolin@gmail.com | sales@toryburchstores.com |
| atopluxury@gmail.com | saletoryburchshoes@hotmail.com |
| benson.jam98@gmail.com | service@toryburch-sale.com |
| bizchinapaypal@yahoo.com.cn | shang220@hotmail.com |

| | |
|--------------------------------|-------------------------------|
| candy.dudu1213@gmail.com | shoesservice6@gmail.com |
| charlesbill2008@hotmail.com | shopallstore@yahoo.com.cn |
| checkout.jp@gmail.com | supplytrade@hotmail.com |
| chenyuqiu2010@hotmail.com | support@hotsdeal.com |
| designerhandbags8@gmail.com | support@toryburchsale.com |
| eluxuryclothing@hotmail.com | surfenhk@hotmail.com |
| eluxuryclothing@hotmail.com.cn | szum2008@126.com |
| fashion866@hotmail.com | t1250@163.com |
| fashionhollicz@gmail.com | terry@fallinfashion.com |
| fashionshop911@hotmail.com | thehouseofgucci@hotmail.com |
| fjgwl@yahoo.com.cn | topshoestobags@hotmail.com |
| freeshippinghandbag@gmail.com | tory.burch@hotmail.com |
| gochinabisniz@yahoo.com.cn | toryburchmall@hotmail.com |
| gooc.lynn@gmail.com | toryburchonline@hotmail.com |
| guyers1@gmail.com | toryburchonsale@gmail.com |
| info@7discountshop.com | toryburchoutletmore@gmail.com |
| info@toryburchbag.com | toryburchsale@gmail.com |
| janeonline23@gmail.com | toryburchshop@hotmail.com |
| jimmybootstrade@hotmail.com | toryburchshops@hotmail.com |
| keywholesale@gmail.com | toryburchus@gmail.com |
| keywholesale@hotmail.com | tt88times@hotmail.com |
| keywholesale@yahoo.com | wangcai420@gmail.com |
| ksrcyvffg@gmail.com | weiwei1580@hotmail.com |
| leesun8661@yahoo.com.cn | wholesaleuslive@hotmail.com |
| lincheryl09@yahoo.com | xdreamcart@hotmail.com |
| liyucang@gmail.com | yourtrade@hotmail.com |
| louboutintime@hotmail.com | ypdv@hotmail.com |
| luolonghai2012@hotmail.com | zhongtiannice@hotmail.com |
| ly12cxl@yahoo.com | zhuolanyu0594@yahoo.com.cn |
| lypwholesale@gmail.com | shoestorecn@gmail.com |
| maiditrade@hotmail.com | world5625@gmail.com |
| marslion3@hotmail.com | |

as well as by attempting service at any other email addresses identified through expedited discovery as belonging to or associated with any Defendant as well as attempting service on any valid facsimile number identified as belonging to or being associated with any Defendant; and it is further

EXHIBIT 1
TO THE PRELIMINARY INJUNCTION

| Defendants' Infringing Web Sites |
|---|
| brandslead.com |
| cheap-toryburchshoes.com |
| designerhandbags8.com |
| discounttoryburch.com |
| discounttoryburch.org |
| Eluxuryclothing.com |
| etoryburch.com |
| eugg.us |
| fallinfashion.com |
| fashion866.com |
| fashionpursue.com |
| fashionshop911.com |
| Freeshippinghandbag.com |
| handbag77.com |
| hotsdeal.com |
| jimmyboots.com |
| keenretail.com |
| keywholesale.com |
| keywholesaleclothing.com |
| keywholesaleinc.com |
| keywholesaleshop.com |
| likehighheels.com |
| louboutintime.com |
| lovetoryburch.com |
| maiditrade.com |
| name-brand-online.com |
| Nikejordancenter.com |
| onestop-onlineshopping.com |
| pop-luxury.com |
| saletoryburch.com |
| sale-toryburch.com |
| shoestorecn.com |
| Thehouseofgucci.com |
| topshoestobags.com |
| tory-burch.us |
| toryburch2011.com |
| toryburchbag.com |
| toryburchbest.com |
| toryburchbrand.com |

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|----------------------------|
| toryburchbrandstore.com |
| toryburchclassic.com |
| toryburchcom.com |
| toryburchfans.com |
| toryburch-home.com |
| toryburch-mall.com |
| toryburchnow.com |
| toryburchofficial.com |
| toryburchok.com |
| toryburchonsale.com |
| toryburch-outlet.com |
| toryburchoutlet.org |
| toryburchoutlets.org |
| toryburch-retail.com |
| toryburch-retailshop.com |
| toryburch-sale.com |
| tory-burch-sale.com |
| toryburchsale.net |
| toryburchsale.org |
| toryburchsaler.com |
| toryburchsell.com |
| toryburch-shoes.us |
| toryburchshoesonsale.com |
| toryburchshoes-onsale.com |
| toryburchshoes-outlets.com |
| toryburchshoesoutlets.com |
| toryburchshoesstore.com |
| toryburchshop.us |
| toryburchshops.com |
| toryburchsoutlets.org |
| toryburch-store.com |
| toryburchstores.com |
| toryburchto.com |
| toryburchtopsale.com |
| toryburchuk.com |
| toryburchus.com |
| toryburchyes.com |
| toryshoes.com |
| uggbootsell.net |
| uggjordanghd.com |
| ugglouboutin.com |

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|-----------------------|
| us-toryburchshoes.com |
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| wholesale-go.com |
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ORDERED that this Preliminary Injunction Order shall remain in effect until disposition of this action; and it is finally

ORDERED that the seal on this action is hereby removed.

SIGNED this 4th day of January 2011.



THE HONORABLE DEBORAH A. BATTS